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8 UNITED STATES DISTRICT COURT
9 SOUTHERN DISTRICT OF CALIFORNIA
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11 ROBERT G. PULLEY,

12 Petitioner,

13 v.

14 D. PARAMO, Warden, et al.,

15 Respondents.

Case No.: 14-CV-2034 JLS (MDD)

**ORDER GRANTING PETITIONER'S
MOTION TO PROCEED IN FORMA
PAUPERIS ON APPEAL**

(ECF No. 58)

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17 Presently before the Court is Petitioner Robert G. Pulley's Motion for Leave to
18 Proceed *In Forma Pauperis* ("IFP") on Appeal. (ECF No. 58.) Federal Rule of Appellate
19 Procedure 24(a)(1)¹ allows a plaintiff to move for IFP status on appeal so long as the
20 plaintiff attaches an affidavit of his inability to pay, claims an entitlement to redress, and
21 states the issues he intends to present on appeal. The determination of whether a plaintiff
22 is indigent, and thus unable to pay the filing fee, falls within the district court's discretion.
23 *Cal. Men's Colony v. Rowland*, 939 F.2d 854, 858 (9th Cir. 1991), *reversed on other*
24 *grounds*, 506 U.S. 194 (1993) ("Section 1915 typically requires the reviewing court to
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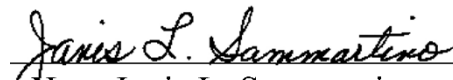
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27 ¹ Federal Rule of Appellate Procedure 24(a)(3), which provides that a party who has already been granted
28 IFP status may file an appeal as such without further authorization, is inapplicable because Petitioner paid
the requisite filing fee and the Court thus denied as moot his motion to proceed IFP. (*See* ECF No. 18.)

1 exercise its sound discretion in determining whether the affiant has satisfied the statute's
2 requirement of indigency.").

3 In the present case, Petitioner has submitted an affidavit demonstrating that he has
4 roughly \$2.00 in his account, and that his average monthly balance in the past six months
5 was \$2.78. (ECF No. 57-1, at 4.) Additionally, the average monthly deposits to his account
6 over that same period was \$28.42. (*Id.*) And Petitioner specifically appeals the Court's
7 denial of his Petition for Writ of Habeas Corpus. (*See* ECF Nos. 54, 56, 57.) Given the
8 foregoing, the Court concludes that Petitioner's application demonstrates he is unable to
9 pay the requisite fees and costs on appeal. Accordingly, the Court **GRANTS** Petitioner's
10 Motion to Proceed IFP on Appeal (ECF No. 58).

11 **IT IS SO ORDERED.**

12 Dated: May 22, 2017

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14 Hon. Janis L. Sammartino
15 United States District Judge
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